

NORMAN MEDLEY,)
)
Plaintiff,)
)
v.) No. 1:06CV160 CDP
)
MARK MCCLINDON, et al.,)
)
Defendants.)

This matter is before the Court on plaintiff's motion to proceed in forma pauperis on appeal. Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner appealing a civil action in forma pauperis is required to pay the full amount of the filing fee. If the prisoner has insufficient funds in his or her prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits in the prisoner's account, or (2) the average monthly balance in the prisoner's account for the prior six-month period. After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner will forward these monthly payments to the Clerk of Court each time the amount in the prisoner's account exceeds \$10, until the filing fee is fully paid. *Id.*

Plaintiff has submitted an affidavit and a certified copy of his prison account statement for the six-month period immediately preceding the submission of his complaint. A review of plaintiff's account indicates an average monthly deposit of \$11.43, and an average monthly balance of \$19.63. Plaintiff has insufficient funds to pay the entire filing fee. Accordingly, the Court will assess an initial partial filing fee of \$3.93, which is 20 percent of plaintiff's average monthly balance.

Plaintiff has also requested a free copy of the transcript from his trial held August 12-13, 2008 "for further litigation." Plaintiff's request will be denied because it is not authorized by the statute governing in forma pauperis proceedings, 28 U.S.C. § 1915. 28 U.S.C. § 1915(c) provides in relevant part as follows:

The court may direct payment by the United States of the expenses of (1) printing the record on appeal in any civil or criminal case, if such printing is required by the appellate court; (2) preparing a transcript of proceedings before a United States magistrate judge in any civil or criminal case, if such transcript is required by the district court, in the case of proceedings conducted under section 636(b) of this title or under section 3401(b) of title 18, United States Code; and (3) printing the record on appeal if such printing is required by the appellate court, in the case of proceedings conducted pursuant to section 636(c) of this title.

28 U.S.C. § 1915(c). Finally, Plaintiff's motion for a certificate of appealability will be denied as a certificate of appealability is not required for this case. See Fed. R. App. P. 22(b).

Accordingly,


IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis on appeal is **GRANTED**.

IT IS FURTHER ORDERED that the plaintiff shall pay an initial filing fee of \$3.93 within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

IT IS FURTHER ORDERED that plaintiff's motion for certificate of appealability [#110] is denied.

IT IS FURTHER ORDERED that plaintiff's request for transcript of trial [#105] is denied.

IT IS FURTHER ORDERED that the motions for bill of costs [#106, #108] are granted, and the Clerk of the Court shall assess all taxable costs against plaintiff in accordance with the August 13, 2008 Judgment.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 7th day of October, 2008.